

MAY 17 2021

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

BENNY STEINFELD, as an individual
and on behalf of all others similarly
situated and aggrieved,

Plaintiff,

v.

RELIANCE HOME SERVICES, INC., a
California corporation; RON S. ESHEL,
an individual; and DOES 1-50, inclusive,

Defendants.

Case No.: **21STCV18559**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Recovery of Unpaid Overtime**
3. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5. **Failure to Compensate for Nonproductive Time in Violation of Labor Code Section 226.2**
6. **Failure to Furnish Accurate Itemized Wage Statements**
7. **Failure to Pay All Wages Due and Owing Upon Separation of Employment**
8. **Failure to Provide Paid Sick Time**
9. **Failure to Reimburse Business Expenses**
10. **Unfair Competition**
11. **Violation of Private Attorneys General Act of 2004**

DEMAND FOR JURY TRIAL

1 Plaintiff, BENNY STEINFELD ("Plaintiff"), as an individual and on behalf of all others
2 similarly situated and aggrieved, hereby files this Complaint against Defendants RELIANCE
3 HOME SERVICES, INC., RON S. ESHEL, and DOES 1-50, inclusive (referred to collectively
4 hereinafter as "Defendants"). Plaintiff is informed and believes and thereon alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. This court possesses original subject matter jurisdiction over this matter. Venue is
7 proper in Los Angeles County, California, because RELIANCE HOME SERVICES, INC.
8 maintains its principal place of business in Los Angeles County and some of the complained of
9 conduct occurred in this judicial district.

10 **THE PARTIES**

11 2. Plaintiff resides in the State of California. Plaintiff worked for Defendants in the
12 State of California as a non-exempt employee during the relevant time period.

13 3. Defendant RELIANCE HOME SERVICES, INC. is a California corporation that, at
14 all relevant times, was authorized to do business within the State of California and is doing business
15 in the State of California.

16 4. Based on information and belief, RON S. ESHEL is an individual residing in the
17 State of California and is, and at all relevant times has been, the Chief Executive Officer of
18 RELIANCE HOME SERVICES, INC. Based on information and belief, RON S. ESHEL devised
19 and implemented the policies at issue in this complaint and "caused" these violations as that term is
20 used in Labor Code §§ 558 and 1197.1. Pursuant to Labor Code §§558 and 1197.1, RON S. ESHEL
21 is liable as a person who "caused" the violations to occur.

22 5. The true names and capacities of the DOE Defendants sued herein as DOES 1
23 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues each such Defendant
24 by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible
25 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this Complaint to
26 reflect the true names and capacities of the Doe Defendants when such identities become known.

27 6. Plaintiff is further informed and believes that, at all relevant times, each Defendant
28 was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling

1 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
2 interest of some or all of the other Defendants, and was engaged with some or all of the other
3 defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
4 other Defendants so as to be liable for their conduct with respect to the matters alleged in this
5 complaint. Plaintiff is further informed and believes and thereon alleges that each Defendant acted
6 pursuant to and within the scope of the relationships alleged above, and that at all relevant times,
7 each Defendant knew or should have known about, authorized, ratified, adopted, approved,
8 controlled, aided and abetted the conduct of all other Defendants.

9 7. Whenever and wherever reference is made in this complaint to any act or failure to
10 act by a Defendants or co-Defendant, such allegations and references shall also be deemed to mean
11 the acts and/or failures to act by each Defendants acting individually, jointly and severally.

12 **CLASS ALLEGATIONS**

13 8. Plaintiff brings this action on behalf of himself and all others similarly situated as a
14 class action pursuant to Code of Civil Procedure section 382. The class Plaintiff seeks to represent
15 is defined as follows: “all non-exempt workers, whether paid on an hourly, commission, and or
16 piece-rate basis, who were employed by Defendants in California at any time within the four years
17 prior to the filing of the initial complaint.” (the “Class Members”)

18 a. Numerosity: While the exact number of Class Members is unknown to Plaintiff at this
19 time, the class is so numerous that the individual joinder of all members is impractical
20 under the circumstances of this case.

21 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment because
22 common questions of law and fact predominate over individual issues. Common
23 questions include, but are not limited to, the following: (1) whether Defendants
24 understated hours worked and failed to pay all amounts due to Plaintiff and the Class
25 Members for wages earned, including minimum and overtime wages, under California
26 law; (2) whether Defendants provided Plaintiff and the Class Members with all meal
27 periods or premium payments in lieu thereof in compliance with California law; (3)
28 whether Defendants provided Plaintiff and the Class members with all rest periods or

1 premium payments in lieu thereof, in compliance with California law; (4) whether
2 Defendants paid separately for nonproductive time during pay periods Plaintiff and the
3 Class Members were compensated on a commission and or piece-rate basis as required
4 under California law; (5) whether Defendants failed to reimburse Plaintiff and the Class
5 Members for all business expenses, including but not limited to, cost of tools, incurred
6 as a direct consequence of the discharge of their job duties; (6) whether Defendants failed
7 to pay Plaintiff and the Class Members all sick leave pay in compliance with California
8 law; (7) whether Defendants provided Plaintiff and the Class Members with complete,
9 accurate, itemized wage statements in compliance with California law by displaying,
10 inter-alia, actual hours worked, gross and net wages for the pay period, all hours worked
11 at each applicable rate of pay, the number of piece-rate units earned and any applicable
12 piece rate, and per Labor Code section 226.2, during pay periods when paid on a
13 commission and or piece-rate basis, the total hours of compensable rest time, the total
14 hours for other non-productive time, the rates of compensation for these hours and the
15 gross wages paid for these hours; (8) whether Defendants timely paid Plaintiff and the
16 Class Members all wages due upon separation of employment; and (9) whether
17 Defendants violated California Business and Professions Code sections 17200, et seq.

- 18 c. Ascertainable Class. The proposed class is ascertainable as its members can be identified
19 and located using information in Defendant's business, payroll and personnel records.
- 20 d. Numerosity. The plaintiff class is so numerous that the individual joinder of all members
21 is impractical under the circumstances of this case. While the exact number of Class
22 Members is unknown to Plaintiff, Plaintiff is informed and believes the class consists of
23 at least 100 individuals.
- 24 e. Typicality. Plaintiff's claims are typical of the claims of the Class Members. Plaintiff
25 suffered a similar injury as the other Class Members as a result of Defendants' common
26 practices regarding, *inter-alia*, failure to calculate and pay all owed minimum and
27 overtime wages, failure to provide proper meal and rest periods or premium
28 compensation in lieu thereof, failure to separately compensate or compensate at the

1 proper rates for nonproductive time when paying on a commission and or piece-rate
2 basis, failure to pay proper sick leave pay, failure to reimburse for incurred business-
3 related expenses, failure to provide accurate and complete wage statements that complied
4 with Labor Code sections 226 and 226.2, and failure to timely pay all wages due upon
5 separation of employment. In addition, Plaintiff will fairly and adequately protect the
6 interests of the Class Members. Plaintiff has no interests adverse to the interests of the
7 other class members.

8 f. Superiority. A class action is superior to other available means for the fair and efficient
9 adjudication of this controversy since individual joinder of all members of the class is
10 impractical. Class action treatment will permit a large number of similarly situated
11 persons to prosecute their common claims in a single forum simultaneously, efficiently,
12 and without the unnecessary duplication of effort and expense that numerous individual
13 actions would engender. Furthermore, as the damages suffered by each individual
14 member of the class may be relatively small, the expenses and burden of individual
15 litigation would make it difficult or impossible for individual members of the class to
16 redress the wrongs done to them, while an important public interest will be served by
17 addressing the matter as a class action. The cost to the court system of adjudication of
18 such individualized litigation would be substantial. Individualized litigation would also
19 present the potential for inconsistent or contradictory judgments. Finally, the alternative
20 of filing a claim with the California Labor Commissioner is not superior, given the lack
21 of discovery in such proceedings, the fact that there are fewer available remedies, and
22 the losing party has the right to a trial de novo in the Superior Court.

23 **FACTUAL ALLEGATIONS**

24 9. During the four-year period preceding filing of this complaint, Plaintiff, and each of
25 the Class Members, were employed by Defendants in the State of California as non-exempt workers,
26 paid on an hourly and or commission and or piece-rate basis. At all times referenced herein,
27 Defendants exercised control over Plaintiff and each of the Class Members and suffered and/or
28 permitted them to work.

1 10. Plaintiff was employed by Defendants as a full-time non-exempt, HVAC technician,
2 from in or about 1999 until approximately May 2020. Plaintiff was paid on an hourly, commission
3 and or piece-rate basis at all relevant times mentioned herein. Plaintiff worked out in the field at
4 various job sites throughout Southern California servicing/repairing air conditioning and heating
5 units. Plaintiff typically worked ten-plus hours shifts.

6 11. Plaintiff was unable to take timely, thirty-minute uninterrupted meal periods, often
7 being forced to take late meal periods or work through part or all of his meal periods due to the
8 nature and constraints of his job working out in the field and or commentary from supervisors
9 pressuring him to take non-compliant meal periods or skip meal periods completely in order to be
10 able to complete a job within a designated timeframe. Nevertheless, Defendants implemented a
11 policy and practice of automatically deducting/requiring Plaintiff to clock out at least thirty minutes
12 per shift for these missed/improper meal periods, despite having actual or constructive knowledge
13 that Plaintiff did not receive compliant meal periods. Defendants also failed to pay Plaintiff an
14 additional hour of wages at his proper regular rate of pay for each workday a proper meal period
15 was not provided. Defendants either did not pay a meal period premium at all or did not pay a
16 proper meal period premium for failure to incorporate all forms of non-discretionary remuneration,
17 including but not limited to, bonus pay and commission and or piece-rate compensation, into the
18 regular pay rate for purposes of calculating the owed meal period premium.

19 12. Plaintiff did not receive compliant, timely 10 (ten)- minute rest periods every four
20 (4) hours worked or major fraction thereof. Plaintiff was often required to take late rest periods or
21 work through part or all of his rest periods due to the nature and constraints of his job working out
22 in the field and commentary from supervisors to take late/shorter rest periods than he was entitled
23 to or skip rest periods completely in order to be able to complete a job within a designated timeframe.
24 Additionally, Plaintiff was required to remain on the job site premises during rest periods, and thus
25 remained under employer control rendering said rest periods on duty, and thus improper. Plaintiff
26 was not paid rest period premiums for these missed/improper rest periods.

27 13. Defendants failed to compensate Plaintiff for all time worked, including but not
28

1 limited to, time spent working through uncompensated meal periods. As described herein,
2 Defendants implemented a policy and practice of automatically deducting/requiring Plaintiff to
3 deduct/clock out for at least thirty minutes per shift for purported meal periods despite Defendants
4 having actual or constructive knowledge that Plaintiff was working through all or part of these meal
5 periods. This off-the-clock work resulted in violations of California minimum wage laws. Given
6 that Plaintiff typically worked ten-plus hour days, this off-the-clock work stemming from being
7 required to work through uncompensated meal periods also resulted in the underpayment of owed
8 overtime wages. Additionally, Defendants implemented a time-shaving/time-rounding system
9 whereby it required its employees, including Plaintiff, to "round" the start and stop times of their
10 hours worked and/or only input their scheduled start and stop times, rather than actual hours worked.
11 For example, Plaintiff reports Defendants would require him to go back and adjust the hours worked
12 entry in his logbook to reflect no more than eight (8) hours worked in a shift despite that Plaintiff
13 was actually working shifts in excess of eight (8) hours. This time-shaving system, implemented
14 by and through Defendant, resulted in record-keeping violations as well as violations of California's
15 minimum and overtime wage laws. Additionally, based on further information and belief, the
16 commission and or piece-rate-based compensation scheme instituted by Defendants resulted in pay
17 periods during which Plaintiff was denied the minimum wage for all hours worked. Defendants
18 paid Plaintiff on a commission and or piece-rate basis, at least during some pay periods, during the
19 relevant time period. However, Defendants failed to separately compensate for all non-commission
20 and non-piece rate related activities/all nonproductive time, including but not limited to, all rest
21 periods. Defendants' failure to separately so compensate resulted in Plaintiff not being paid for all
22 hours worked in violation of California minimum wage laws and Labor Code section 226.2.¹

23 14. Defendants further violated California overtime laws by failing to incorporate all
24
25

26 ¹ Pursuant to Labor Code section 226.2, Defendants were required to compensate Plaintiff for rest periods at a regular
27 hourly rate no less than the higher of: (i) an average hourly rate determined by dividing the total compensation for the
28 workweek, exclusive of compensation for rest and recovery periods and any premium compensation for overtime, by
the total hours worked during the workweek, exclusive of rest periods, or (ii) The applicable minimum wage.

1 forms of non-discretionary remuneration, including but not limited to, bonus pay and commission
2 and or piece-rate compensation, into the regular pay rate for purposes of calculating the owed
3 overtime rate, resulting in the further miscalculation and underpayment of owed overtime wages.

4 15. Based on information and belief, Defendants did not provide Plaintiff with any sick
5 leave pay, or Defendants improperly accrued the amount of sick leave pay owed for failure to base
6 the owed sick leave pay on the correct number of hours worked and for failure to incorporate all
7 forms of non-discretionary remuneration, including but not limited to, bonus pay and commission
8 and or piece-rate compensation, into the regular pay rate for purposes of calculating the owed sick
9 leave pay. On further information and belief, Defendants failed to provide notice of the correct sick
10 leave amount balance available to Plaintiff.

11 16. Defendants failed to furnish Plaintiff with complete and accurate wage statements
12 in compliance with Labor Code section 226. The wage statements do not accurately reflect the total
13 gross and net wages earned, including, all earned minimum and overtime wages, do not accurately
14 reflect all applicable hourly rates in effect during the pay period and the corresponding number of
15 hours worked at each hourly rate, and for pay periods during which Plaintiff was compensated on a
16 piece-rate basis, do not display the number of piece-rate units earned and any applicable piece rate.
17 Additionally, Defendants failed to include on the wage statements for pay periods during which
18 Plaintiff was compensated on a piece-rate basis, the total hours of compensable rest time, the total
19 hours for other non-productive time, the rates of compensation for those hours, and the gross wages
20 paid for those hours. Furthermore, due to Defendants' meal period auto-deduction and rounding
21 practices described herein, Defendants' wage statements do not display the actual hours Plaintiff
22 worked, a requirement of Labor Code section 226. Accordingly, Defendants have violated Labor
23 Code sections 226 and 226.2 as to Plaintiff.

24 17. Defendants failed to reimburse Plaintiff for all necessary business-related
25 expenditures incurred by Plaintiff in direct discharge of his duties. For example, Defendants
26 instructed and required Plaintiff to purchase tools for use on the job but did not reimburse Plaintiff
27 in full for the cost of these tools. Accordingly, Employer violated Labor Code section 2802 as to
28 Plaintiff.

18. Upon separation of employment, Defendants failed to furnish Plaintiff with a final paycheck containing all earned and unpaid wages, including, all earned and unpaid minimum and overtime wages.

19. Plaintiff is informed and believes and alleges thereon that Defendants engaged in these same herein described unlawful practices with regard to all of the Class Members, and that Defendants applied these same herein described unlawful practices to all of its non-exempt employees that it applied to Plaintiff.

FIRST CAUSE OF ACTION
Recovery of Unpaid Minimum Wages and Liquidated Damages
(Against All Defendants)

20. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

21. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up to 40 per week or eight (8) per day, at a regular time rate no less than the mandated minimum wage. Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

22. Defendants violated California's minimum wage laws by failing to compensate Plaintiff and the Class Members for all time worked. As described herein, Defendants implemented a policy and practice of automatically deducting/requiring Plaintiff to deduct/clock out for at least thirty minutes per shift for purported meal periods despite Defendants having actual or constructive knowledge that Plaintiff and the Class Members were often working through all or part of these meal periods. This off-the-clock work resulted in violations of California minimum wage laws. Additionally, Defendants implemented a time-shaving/time-rounding system whereby it required Plaintiff and the Class Members to "round" the start and stop times of their hours worked and/or only input their scheduled start and stop times, rather than actual hours worked. For example, based on information and belief, Defendants would require Plaintiff and the Class Members to go back and adjust the hours worked entry in their logbooks to reflect no more than eight (8) hours worked

1 in a shift despite that Plaintiff and the Class Members were actually working shifts in excess of eight
2 (8) hours. This time-shaving system, implemented by and through Defendants, resulted in violations
3 of California's minimum wage laws. Additionally, based on information and belief, the
4 compensation/piece-rate-based compensation scheme instituted by Defendants resulted in pay
5 periods during which Plaintiff and the Class Members were denied the minimum wage for all hours
6 worked. Defendants paid Plaintiff and the Class Members on a commission and/or piece-rate basis,
7 at least during some pay periods, during the relevant time period. However, Defendants failed to
8 separately compensate Plaintiff and the Class Members for rest periods and other nonproductive
9 time separate from commission/piece-rate compensation at rates at or in excess of the applicable
10 minimum wage. Defendants' failure to separately so compensate for rest periods and other
11 nonproductive time resulted in Plaintiff and the Class Members not being paid for all hours worked
12 in violation of California Labor Code sections 226.2, 1194, and 1197.

13 23. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Class Members
14 are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus attorney's
15 fees and costs, in an amount to be proved at trial.

16 **SECOND CAUSE OF ACTION**
17 **Recovery of Unpaid Overtime**
18 **(Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)**

19 24. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

20 25. California law provides employees in California must be paid overtime, equal to 1.5
21 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or (8) eight
22 per day and must be paid double wages for all hours worked in excess of 12 per day, unless they are
23 exempt. Defendants violated California's overtime laws by failing to correctly calculate the total
24 number of hours worked by Plaintiff and the Class Members by virtue of, among other things, its
25 time-shaving/time-rounding practice and auto-deduction practice for meal periods described herein.
26 Given Plaintiff and the Class Members' typical work schedules, this off-the-clock work stemming
27 from being required to work through uncompensated meal periods and round their hours worked,
28 including meal period and shift start and end times, resulted in the miscalculation and underpayment

1 of owed overtime wages. Additionally, Defendants failed to incorporate all forms of non-
2 discretionary remuneration, including but not limited to, bonus pay and commission and/or piece-
3 rate pay, into the regular pay rate for purposes of calculating the owed overtime rate, resulting in
4 the further miscalculation and underpayment of owed overtime wages.

5 26. Defendants' conduct described above is in violation of California Labor Code
6 sections 510, 511 and 1194, and all applicable IWC Wage Orders.

7 27. Plaintiff and the Class Members are entitled to recover all unpaid overtime wages,
8 plus attorney's fees and costs, in an amount to be proved at trial.

9 **THIRD CAUSE OF ACTION**

10 **Failure to Provide Meal Periods or Compensation in Lieu Thereof (Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)**

11 28. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

12 29. Pursuant to Labor Code section 512 and the IWC Wage Orders, Defendants were
13 required to provide Plaintiff and the Class Members with one 30-minute meal break free from all
14 duties for all shifts longer than five (5) hours, and a second 30-minute meal break free from all
15 duties for all shifts longer than 10 hours. Meal periods can be waived, but only under the following
16 circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more
17 than six (6) hours, the required meal period may be waived by mutual consent of the employer and
18 employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more
19 than twelve (12) hours, the required second meal period may be waived by mutual consent of the
20 employer and employee, but only if the first meal period was not waived. Employers covered by the
21 Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for
22 shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly
23 record a valid meal period, it is presumed no meal period was provided.

24 30. Plaintiff and the Class Members were unable to take timely, thirty-minute
25 uninterrupted meal periods, often being forced to take late meal periods or work through part or all
26 of meal periods due to the nature and constraints of their job duties and or commentary from
27 supervisors pressuring them to take non-compliant meal periods or skip meal periods completely.
28 Nevertheless, Defendants implemented a policy and practice of automatically deducting/requiring

1 Plaintiff and the Class Members to clock out for at least thirty minutes per shift for these
2 missed/improper meal periods, despite having actual or constructive knowledge that Plaintiff and
3 the Class Members did not receive compliant meal periods. Defendants also failed to pay Plaintiff
4 and the Class Members an additional hour of wages at their proper regular rate of pay for each
5 workday a proper meal period was not provided. Defendants either did not pay a meal period
6 premium at all or did not pay a proper meal period premium for failure to incorporate all forms of
7 non-discretionary pay, including but not limited to, bonus pay and commission and/or piece-rate
8 compensation, into the regular pay rate for purposes of calculating the owed meal period premium.

9 31. Defendants failed to provide Plaintiff and the Class Members with all required meal
10 periods, or with proper compensation in lieu thereof. As a result, under Labor Code section 226.7,
11 Plaintiff and the Class Members are entitled to one additional hour's pay at the proper premium pay
12 rate for each day a meal period was missed, late or interrupted, all in an amount to be proved at trial.

13 **FOURTH CAUSE OF ACTION**

14 **Failure to Provide Rest Periods or Compensation in Lieu Thereof (Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)**

15 32. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

16 33. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
17 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
18 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
19 "insofar as practicable." The rest period requirement obligates employers to permit and authorize
20 employees to take off-duty rest periods, meaning employers must relieve employees of all duties
21 and relinquish control over how employees spend their time. *Augustus v. ABM Security Services,*
22 *Inc.*, (2016) 5 Cal.5th 257. Accordingly, an employer cannot require employees to stay on the work
23 premises during their rest periods as "one cannot square the practice of compelling employees to
24 remain at the ready, tethered by time and policy to *particular locations* or communications devices,
25 with the requirement to relieve employees of all work duties and employer control during 10-minute
26 rest periods. [emphasis added]." *Id.* at 269. If the employer fails to provide any required rest period,
27 the employer must pay the employee one hour of pay at the employee's regular rate of compensation
28

1 for each workday the employer did not provide at least one legally required rest period, pursuant to
2 Labor Code section 226.7.

3 34. Plaintiff and the Class Members did not receive compliant, timely 10 (ten)-minute
4 rest periods every four (4) hours worked or major fraction thereof. There was no policy/practice
5 implemented to ensure Plaintiff and the Class Members were able to take timely compliant rest
6 periods; rather, any purported rest periods were taken as time permitted and were improper
7 irrespective of the fact that they were not always timely, uninterrupted or a full ten-minutes in length,
8 *to wit*: Based on information and belief, Plaintiff and the Class Members were required to remain
9 on the job site premises during their rest periods and thus remained under employer control
10 rendering any said rest periods on-duty and thereby improper. Defendants further employed policies
11 and procedures which ensured Plaintiff and the Class Members did not receive any premium wages
12 to compensate them for workdays that they did not receive all legally required rest periods.

13 35. Defendants are therefore liable to Plaintiff and the Class Members for one hour of
14 additional pay at the regular rate of compensation for each workday that a require rest periods was
15 not provided, pursuant to California Labor Code section 226.7 and the applicable Wage Order, plus
16 pre-judgment interest.

17 **FIFTH CAUSE OF ACTION**

18 **Failure to Compensate for Nonproductive Time in Violation of Labor Code Section 226.2 (Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)**

19 36. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

20 37. Labor Code section 226.2 requires an employer to pay employees compensated on a
21 piece-rate basis separately for rest and recovery periods and other nonproductive time, apart from
22 any piece-rate pay. This statute further requires an employer to include on the wage statements for
23 these employees the total hours of compensable rest and recovery period, the total hours for other
24 non-productive time, the rates of compensation for these hours, and the gross wages paid for these
25 hours. In addition, the statute requires that employees shall be compensated for rest and recovery
26 periods at a regular hourly rate that is no less than the higher of: (i) an average hourly rate determined
27 by dividing the total compensation for the workweek, exclusive of compensation for rest and
28 recovery periods and any premium compensation for overtime, by the total hours worked during the

workweek, exclusive of rest and recovery periods, or (ii) The applicable minimum wage. California courts have held that this statute also applies to employees paid on a commissioned basis.

38. During the Class Period, Employer failed to comply with Labor Code section 226.2. Specifically, Employer failed to pay Plaintiff and the Class Members who were paid on a piece rate or commission basis separately for their rest periods and other nonproductive time and/or failed to pay them for this time at the correct rates. Defendants further failed to include the information on Plaintiff and the Class Members' wage statements required by this statute.

39. As a direct and proximate result of Defendants' violation of Labor Code Section 226.2 as alleged herein, Plaintiff and the Class Members have sustained damages, including but not limited to, loss of earnings for hours worked, prejudgment interest, and costs and attorneys' fees, pursuant to the statute and other applicable law. The violations described herein also subject Defendants to penalties under Labor Code section 226.3.

SIXTH CAUSE OF ACTION

Failure to Furnish Accurate Itemized Wage Statements (Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)

40. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

41. Pursuant to California Labor Code § 226, subdivision (a), Plaintiff and the Class Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

1 42. During the Class Period, Defendants intentionally failed to furnish Plaintiff and the
2 Class Members with complete and accurate wage statements that complied with Labor Code section
3 226. The wage statements do not accurately reflect the total gross and net wages earned, including,
4 all earned minimum and overtime wages, do not accurately reflect all applicable hourly rates in
5 effect during the pay period and the corresponding number of hours worked at each hourly rate, and
6 for pay periods during which Plaintiff and the Class Members were compensated on a piece-rate
7 basis, do not display the number of piece-rate units earned and any applicable piece rate.
8 Additionally, Defendants failed to include on the wage statements for pay periods during which
9 Plaintiff and the Class Members were compensated on a commission or piece-rate basis, the total
10 hours of compensable rest time, the total hours for other non-productive time, the rates of
11 compensation for those hours, and the gross wages paid for those hours. Furthermore, due to
12 Defendants' meal period auto-deduction and time-rounding practices described herein, Defendants'
13 wage statements do not display the actual hours Plaintiff and the Class Members worked, a
14 requirement of Labor Code section 226. Accordingly, Defendants have violated Labor Code
15 sections 226 and 226.2 as to Plaintiff and the Class Members.

16 43. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
17 suffered injury. The absence of accurate information on their wage statements has prevented earlier
18 challenges to Defendants' unlawful pay practices, will require discovery and mathematical
19 computations to determine the amount of wages owed, and will cause difficulty and expense in
20 attempting to reconstruct time and pay records. Defendants' conduct led to the submission of
21 inaccurate information about wages and amounts deducted from wages to state and federal
22 government agencies. As a result, Plaintiff and the Class Members are required to participate in this
23 lawsuit and create more difficulty and expense for Plaintiff and the Class Members from having to
24 reconstruct time and pay records than if Defendants had complied with their legal obligations.

25 44. Pursuant to California Labor Code section 226(e), Plaintiff and the Class Members
26 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
27 violation occurred and one hundred dollars per employee per violation for each subsequent pay
28 period, not to exceed an aggregate penalty of four thousand dollars per employee.

45. Pursuant to California Labor Code § 226(h), Plaintiff and the Class Members are entitled to bring an action for injunctive relief to ensure Defendants' compliance with California Labor Code § 226(a). Injunctive relief is warranted because Defendants continue to provide currently employed Class Members with inaccurate wage statements in violation of California Labor Code § 226(a) and currently employed Class Members have no adequate legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants' compliance with California Labor Code § 226(a).

46. Pursuant to California Labor Code §§ 226(e) and 226(h), Plaintiff and the Class Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

**Failure to Pay All Wages Due and Owing Upon Separation of Employment
(Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)**

47. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

48. Pursuant to California Labor Code sections 201 and 202, Plaintiff and the Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged employees were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Employees who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid prior to resignation at the time of resignation.

49. Defendants failed to timely pay Plaintiff and the Class Members all wages earned and unpaid upon separation of employment, in accordance with California Labor Code sections 201, 202, and 203.

50. Defendants' failure to pay Plaintiff and the Class Members all wages earned prior to separation of employment timely in accordance with California Labor Code sections 201, 202, and 203 was willful. Defendants had the ability to pay all wages earned by non-exempt employees

1 prior to separation of employment in accordance with California Labor Code sections 201, 202, 203,
2 but intentionally adopted policies or practices incompatible with the requirements of California
3 Labor Code sections 201, 202, and 203. As a result of Defendants' conduct, Plaintiff and the Class
4 Members have suffered injuries.

5 51. Pursuant to California Labor Code section 203, Plaintiff and the Class Members are
6 entitled to continuation of their wages, from the day their earned and unpaid wages were due upon
7 separation until paid, up to a maximum of 30 days.

8 **EIGHTH CAUSE OF ACTION**
9 **Failure to Provide Paid Sick Time**
10 **(Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)**

11 52. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

12 53. California Labor Code section 246(1)(1) provides that paid sick time for non-exempt
13 employees be "calculated in the same manner as the regular rate of pay for the workweek in which
14 the employee uses paid sick time, whether or not the employee actually works overtime in the
15 workweek."

16 54. California Labor Code section 246(1)(2) further provides that paid sick time for non-
17 exempt employees be "calculated by dividing the employee's total hours worked in the full pay
18 periods of the prior 90 days of employment.

19 55. Defendants violated Labor Code section 246 by failing to pay all owed sick leave
20 time. Based on information and belief, Defendants improperly accrued the amount of sick leave pay
21 owed for failure to base the owed sick leave pay on the correct number of hours worked and for
22 failure to incorporate all forms of non-discretionary remuneration, including but not limited to,
23 bonus pay and commission and/or piece-rate compensation, into the regular pay rate for purposes
24 of calculating the owed sick pay. On further information and belief, Defendants failed to provide
25 notice of the correct sick leave amount balance left for Plaintiff and the Class Members.

26 **NINTH CAUSE OF ACTION**
27 **Failure to Reimburse Business Expenses**
28 **(Against All Defendants)**

56. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

57. Pursuant to California Labor Code section 2802, Plaintiff and the Class Members

1 were entitled to be reimbursed for all necessary expenses associated with carrying out orders by
2 their employer and/or carrying out the duties assigned by their employers.

3 58. Defendants failed to reimburse Plaintiff and the Class Members for all necessary
4 business-related expenditures incurred in direct discharge of their duties. For example, Defendants
5 instructed and required Plaintiff and the Class Members to purchase tools for use on the job but did
6 not reimburse Plaintiff and the Class Members in full for the cost of these tools. Accordingly,
7 Employer violated Labor Code section 2802 as to Plaintiff and the Class Members. Defendants'
8 failure to provide Plaintiff and the Class Members with full reimbursement for all reasonable
9 expenses associated with carrying out their duties required that Plaintiff and the Class Members
10 subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

11 59. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
12 suffered injury in that they were not completely reimbursed as mandated by California law.

13 60. Pursuant to California Labor Code section 2802, Plaintiff and the Class Members
14 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
15 attorneys' fees, and costs of suit.

16 **TENTH CAUSE OF ACTION**

17 **Unfair Competition**

18 **(Against Defendants RELIANCE HOME SERVICES, INC. and DOES 1-50, inclusive)**

19 61. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

20 62. The unlawful conduct of Defendants alleged herein constitutes unfair competition
21 within the meaning of California Business and Professions Code section 17200. This unfair conduct
22 includes inter-alia, Defendants' failure to pay minimum and overtime wages by virtue of its illegal
23 meal period auto-deduction and rounding practices, failure to compensate at all for nonproductive
24 time or compensate at the appropriate rate per Labor Code section 226.2 during those pay periods
25 when Plaintiff and the Class Members were compensated on a piece-rate or commission basis,
26 failure to authorize or permit, or provide, all required meal and rest periods or pay proper premiums
27 in lieu thereof, failure to provide proper notice and pay of sick time benefits, failure to furnish
28 complete and accurate itemized wage statements; failure to reimburse business expenses, and failure
to timely pay all wages due during and upon separation of employment. Due to its unfair and

1 unlawful business practices in violation of the California Labor Code, Defendants have gained a
2 competitive advantage over other comparable companies doing business in the State of California
3 that comply with their obligations to authorize or permit rest and meal periods or pay proper meal
4 and rest period premiums in lieu thereof, to compensate for nonproductive time when paying on a
5 piece-rate basis, to provide proper notice and properly accrue and pay sick time benefits, to provide
6 complete and accurate itemized wage statements, to pay all owed minimum and overtime wages, to
7 reimburse for business expenses, and to pay all wages timely upon separation of employment of
8 their employees.

9 63. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
10 Class Members have suffered injury in fact and lost money or property, as described in more detail
11 above. Pursuant to California Business and Professions Code section 17200, et seq., Plaintiff and
12 Class Members are entitled to restitution of all wages and other monies rightfully belonging to them
13 that Defendants failed to pay and wrongfully retained by means of its unlawful and unfair business
14 practices. Plaintiff also seeks an injunction against Defendants on behalf of the Class Members
15 enjoining Defendants, and any and all persons acting in concert with it, from engaging in each of
16 the unlawful practices, policies and patterns set forth herein.

17 **ELEVENTH CAUSE OF ACTION**

18 **Violation of Private Attorneys General Act of 2004 – Labor Code §§ 2698, et seq.**

19 **(Against All Defendants)**

20 64. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

21 65. California's Private Attorneys General Act (Labor Code §§ 2698, et seq.) authorizes
22 aggrieved employees to bring a civil action to recover civil penalties for violations of the California
23 Labor Code. Pursuant to Labor Code section 2699.3, an aggrieved employee must give written
24 notice by online filing with the Labor and Workforce Development Agency ("LWDA") and by
25 certified mail to the employer of the specific provisions of the Labor Code alleged to have been
26 violated, including the facts and theories to support the alleged violations.

27 66. As discussed herein, Plaintiff is an Aggrieved Employee who has been subject to the
28

1 foregoing Labor Code violations and the Labor Code violations described below. Plaintiff provided
2 the LWDA and Defendants with the required written notice of Plaintiff's intention to pursue this
3 PAGA claim on February 25, 2021. The LWDA has not provided notice of its intention to
4 investigate the claims since that time.

5 67. During the approximate 1 year and 65-day time period prior to filing this Complaint,
6 Defendants violated the California Labor Code sections discussed above. Defendants further failed
7 to maintain records as required by Labor Code section 1174 and the applicable IWC Wage Order.
8 Moreover, by virtue of its violations with respect to meal period, rest period, recordkeeping
9 provisions and minimum and overtime wage laws, Defendants further violated Labor Code sections
10 1198 and 1199, which together make unlawful any employment of any employee under conditions
11 of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any
12 provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or
13 order or ruling of the commission. Defendants also failed to comply with Labor Code section 204
14 by failing to timely pay twice during each calendar month all wages due and payable to Plaintiff and
15 the other Aggrieved Employees. Defendants also violated Labor Code section 216, which declares
16 unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any
17 claim to wages due by failing to pay Plaintiff and the other Aggrieved Employees for all hours
18 worked at the proper wage rate and by failing to pay Plaintiff and the other Aggrieved Employees
19 an additional hour of pay for each meal/rest period not provided/that was invalid. In violation of
20 California Labor Code section 223, Defendants also willfully and systematically denied Plaintiff
21 and the other Aggrieved Employees minimum and overtime wage compensation for all hours
22 worked which resulted in the payment of less than statutorily required wages to them. Furthermore,
23 Plaintiff and the other Aggrieved Employees were compensated with commissions but were not
24 provided with proper written commission agreements in violation of Labor Code section 2751.
25 Plaintiff seeks all available relief as a result of the Labor Code violations described herein under
26 PAGA, including PAGA penalties, and attorney's fees and costs in pursuing this PAGA claim.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for relief and judgment as follows on behalf of himself, the
3 Class Members and the Aggrieved Employees:

- 4 1. For an order that the action, be certified as a class action;
5 2. For an order that Plaintiff, be appointed class representative;
6 3. For an order that counsel for Plaintiff be appointed class counsel;
7 4. For compensatory damages according to proof;
8 5. For an order requiring Defendants to make restitution of all amounts wrongfully
9 withheld from Plaintiff and the class;
10 6. For pre-judgment interest as permitted by law;
11 7. For civil penalties according to proof, including PAGA penalties;
12 8. Attorney's fees and costs reasonably incurred; and
13 9. Such other and further relief that the Court deems just and proper.

14
15 Dated: May 17, 2021

CROSNER LEGAL, PC

16
17 By: 

18 Michael R. Crosner, Esq.
19 Zachary M. Crosner, Esq.
20 Blake R. Jones, Esq.
21 Attorneys for Plaintiff,
22 BENNY STEINFELD
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff demands a trial by jury on all claims so triable.

3
4 Dated: May 17, 2021

CROSNER LEGAL, PC

5
6 By: 

7 Michael R. Crosner, Esq.
8 Zachary M. Crosner, Esq.
9 Blake R. Jones, Esq.
Attorneys for Plaintiff,
BENNY STEINFELD